

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

-----X

MARIO FRANCO,

5:16-CV-634 (FJS/TWD)

Plaintiff,

**DECLARATION OF ATTORNEY  
FRED LICHTMACHER**

-against-

THE CITY OF SYRACUSE, POLICE OFFICER JOHN  
GUNSALUS 0453, POLICE OFFICER WILLIAM LASHOMB,  
POLICE OFFICER MAURO 132, POLICE OFFICER KELLY 279,  
and UNIDENTIFIED SYRACUSE POLICE OFFICERS,  
all sued herein in their capacity as individuals.

Defendant(s).

-----X

FRED LICHTMACHER, pursuant to 28 U.S.C. §1746, declares under  
penalty of perjury as follows:

I am an attorney duly admitted to practice law before the courts of the State of New York as well as in the Northern District Federal Court. I am counsel for the Plaintiff in the above-entitled matter. I am familiar with the facts and circumstances hereinafter contained within, the source of my knowledge being the contents of my file, conversations with the Plaintiff, his criminal attorney as well as the witnesses and from having litigated this matter since its inception.

This Declaration is submitted in support of the Plaintiff's response to the Defendants' motion for partial summary judgment seeking dismissal of the Complaint, in part, with prejudice pursuant to Federal Rule of Civil Procedure 56.

Annexed hereto for the convenience of the Court are true copies of the following:

Exhibit “1”	is a true copy of excerpts from the July 21, 2017, deposition of Plaintiff Mario Franco;
Exhibit “2”	is a true copy of excerpts from the September 28, 2017, deposition of Defendant John Gunsalus;
Exhibit “3”	is a true copy of excerpts from the July 19, 2017, deposition of Elijah Johnson;
Exhibit “4”	is a true copy of excerpts from the July 20, 2017, deposition of Kenneth McFadden;
Exhibit “5”	is a true copy of excerpts from the October 20, 2017, deposition of Erin Gustke;
Exhibit “6”	is a true copy of excerpts from the July 19, 2017, deposition of Defendant Shawn Kelly;
Exhibit “7”	is a true copy of excerpts from the July 27, 2017, deposition of Preston Fagen;
Exhibit “8”	is a true copy of excerpts from the June 17, 2015, criminal trial People v Mario Franco Volume I (DR # 14-353740);
Exhibit “9”	is a true copy of a photograph of Elijah Johnson after he was beaten by members of the SPD on July 6, 2014.

Both Gonsalus and Kelly met with the District Attorney to prepare for trial and both testified at the criminal trial of Mario Franco.

Gonsalus generated paperwork accusing Franco of resisting arrest, an A misdemeanor and those documents were part of Franco's criminal prosecution.

Dated: New York, New York  
March 27, 2018

Law Offices of Fred Lichtmacher, PC  
Attorneys for Plaintiff, Mario Franco  
116 West 23<sup>rd</sup> Street - Suite 500  
New York, New York 10011  
(212) 922-9066

/ s /

---

By: Fred Lichtmacher 513193

To: Christina F. DeJoseph, Esq.  
Assistant Corporation Counsel

300 City hall  
233 East Washington Street  
Syracuse, New York 13202  
(315) 448-8400